

REGINALD KIRTZ	:	CIVIL ACTION
	:	
Plaintiff,	:	
	:	No.: 20-5231
v.	:	
	:	
TRANS UNION, LLC, et al.	:	
	:	
Defendants	:	
_____	:	

ORDER

AND NOW, this _____ day of _____, 2021, upon consideration of Plaintiff's Motion to Certify this Court's Order granting Co-Defendants, U.S., et al.'s Motion to Dismiss, and any response thereto, it is hereby ORDERED and DECREED Plaintiff's Motion is GRANTED, and the Order is CERTIFIED for immediate interlocutory appeal pursuant to 28 U.S.C.A. § 1292(b).

The subject Order is amended to seek review of the following question presented:

Whether Co-Defendant, U.S., et al. is immune from civil prosecution under the Fair Credit Reporting Act.

AND IT IS SO ORDERED.

J.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

REGINALD KIRTZ	:	CIVIL ACTION
	:	
Plaintiff,	:	
	:	
v.	:	No.: 20-5231
	:	
TRANS UNION, LLC, et al.	:	
	:	
Defendants	:	
	:	

**PLAINTIFF’S MOTION TO AMEND ORDER GRANTING CO-DEFENDANT U.S., ET
AL.’S MOTION TO DISMISS FOR IMMEDIATE INTERLOCUTORY APPEAL
PURSUANT TO 28 U.S.C.A. § 1292(B)**

Upon consideration of the attached Memorandum of Law, Plaintiff respectfully requests this Honorable Court certify its)Order granting Co-Defendant, U.S., et al.’s Motion to Dismiss for immediate interlocutory appeal – consistent with the attached proposed order.

WEISBERG LAW

/s/ Matthew B. Weisberg
Matthew B. Weisberg, Esquire
Attorneys for Plaintiff

REGINALD KIRTZ	:	CIVIL ACTION
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	:	
Defendants	:	,
	:	

On May 4, 2021, this Honorable Court granted Co-Defendant, U.S., et al.’s Motion to Dismiss holding therein, *inter alia*, that said Defendant is immune from civil prosecution under the Fair Credit Reporting Act (“FCRA”). (Doc. No. 30).

In its opinion, this Court held certain circuits’ analyses favored towards instant dismissal thereby rejecting other (“split”) circuits.

Undersigned counsel recently appeared before the United States Supreme Court in an analogous matter, Rotkiske v. Klemm, 589 U.S. – (2019) to resolve a similar (but even less pronounced) circuit split (there as regards the Fair Debt Collection Practices Act [“FDCPA”] statute of limitations sur “discovery rule”).

Instantly, in the first instance, there exists a substantial ground for difference of opinion: as evident by the split circuits.

Like evident is that there exists a controlling issue of law: whether Co-Defendant is immune from civil prosecution under the FCRA.

To wit, so controlling is that Co-Defendant has been dismissed. *See generally*, Katz, at 155.

As to whether certification for interlocutory appeal would materially advance the termination of the litigation, it should be noted that Plaintiff is not here asking for stay of litigation (as is common in motions under sections of 1292(b)), nor is Plaintiff seeking to certify an issue not resulting in dismissal (i.e., a central but non-terminating issue).

Certainly, an appeal of the termination of a data furnisher/Co-Defendant's dismissal – without remaining stay – would materially advance the termination of the litigation as to the data furnisher; otherwise, those parties need wait until the conclusion of remaining Defendants' termination/settlement (on different grounds) merely to resolve the instant question proposed as to a dismissed party.

Indeed, the novelty and thus matter of first impression within the Third Circuit (and its District Courts – such as instantly) provides ample grounds for certification, especially in light of all the above.

WHEREFORE, Plaintiff respectfully requests this Honorable Court certify its Order as amended for interlocutory appeal.

WEISBERG LAW

/s/ Matthew B. Weisberg
Matthew B. Weisberg, Esquire
Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

REGINALD KIRTZ

Plaintiff,

v.

TRANS UNION, LLC, et al.

Defendants

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CIVIL ACTION

No.: 20-5231

CERTIFICATE OF SERVICE

I, Matthew B. Weisberg, Esquire, hereby certify that on this 11th day of May, 2021, a true and correct copy of the foregoing Plaintiff's Motion to Amend Order Granting Co-Defendant, U.S., et al.'s Motion to Dismiss for Immediate Interlocutory Appeal Pursuant to 28 U.S.C.A. § 1292(b) and Memorandum of Law in Support thereof were served via ECF, upon the following parties:

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